

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MOHAMUD MOHAMED,  
  
Plaintiff,  
  
v.  
  
NORTHERN VICTOR F/V, et al.,  
  
Defendants.

ORDER  
  
CASE NO. C05-2019JLR

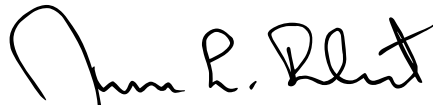
This matter comes before the court on Defendants' motion to amend their answer to add a counterclaim (Dkt. #16). For the reasons stated below, the court GRANTS the motion.

Defendants seek leave to amend their answer in order to allege that Plaintiff intentionally concealed a preexisting medical condition, which they contend entitles them to reimbursement of maintenance and cure payments already paid. The court notes that in order to prevail on such a claim, Defendants must show that Plaintiff concealed a medical condition that he knew or should have known was related to the injury for which he requested maintenance and cure. See Omar v. Sea-Land Serv., Inc., 813 F.2d 986, 990 (9th Cir. 1987). Notwithstanding this relatively high standard of proof, the court must

1 consider Defendants' motion against the liberal standard for granting leave to amend  
2 under the federal rules. Against this backdrop, the court concludes that Defendants'  
3 motion is timely and that Plaintiff has not met his burden to show undue prejudice.  
4 Lastly, although the court strongly suspects that additional discovery is unnecessary,  
5 Plaintiff is free to move to reopen discovery and seek relief from the court's scheduling  
6 order if he can provide a basis for doing so.  
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8 For these reasons, the court GRANTS Defendants' motion to amend their answer  
9 to add a counterclaim. Defendants should file their amended answer no later than  
10 October 13, 2006.

11 Dated this 10th day of October, 2006.  
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15 JAMES L. ROBART  
16 United States District Judge  
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